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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,453	12/15/2003	James H. Boschma JR.	11196.39	3083

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EXAMINER	
KATCHEVES, BASIL S	
ART UNIT	PAPER NUMBER
3635	
MAIL DATE	DELIVERY MODE
05/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/736,453	BOSCHMA ET AL.	
	Examiner	Art Unit	
	Basil Katcheves	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 August 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/8/06, 4/7/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-16, 19 and 20 are provisionally rejected on the ground of nonstatutory double patenting of copending Application No. 11/009,696. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

Claims 1-4, 6, 9-12, 15, 16, 20 are substantially similar to claims 1, 2, 4, 5, 16, 11, 1, 4, 5, 11, 1, 16, respectively, of 11/009,696.

Regarding claims 7, 8, 14 and 19 are obvious design choices for inflatable structures and means for transmitting data.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6, 9, 10, 12, 13, 15, 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,484,788 to Bell et al.

Regarding claims 1, 10, Bell discloses an inflatable tower made of an envelope (fig. 5: 10) having a first end (bottom) and second end (top), an inflating means (18) and an observation means at the second end (platform 34 and antenna 44).

Regarding claims 4, 12, Bell discloses a plurality of guy wires (42).

Regarding claims 5, 13, Bell discloses a guy wire attached to the second end (42) and a guy wire attached between the first end (28 & 46) and the second end.

Regarding claim 6, Bell discloses guy wire (46) as being coaxial cable.

Regarding claims 9, 15, 20, Bell discloses the envelope as a truncated cone (fig. 2).

Regarding claim 16, Bell discloses an inflatable tower made of an envelope (fig. 5: 10) having a first end (bottom) and second end (top), an inflating means (18) and an observation means at the second end (platform 34 and antenna 44). Since Bell discloses the envelope as being a fabric, (column 2, lines 34-36), when the envelope is not fully inflated, it would inherently have many folds and creases. The second end of the envelope would inherently be restrained by the weight of the platform and any object placed upon it (fig. 5: see assembly at top). Also, the second end would be gradually released by the unwinding of cable 28 to allow the envelope to inflate and extend to it's full height.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 3, 7, 8, 11, 14 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,484,788 to Bell et al.

Regarding claim 2, Bell teaches filling the tower with air pressure through point 18 but does not specifically disclose the air as being cold. It would have been obvious to one having ordinary skill in the art at the time the invention was made to pump in cold

air, meaning non heated air, since it would be easier and more cost efficient to provide a simple pump as opposed to a pump and heater.

Regarding claims 3, 11, Bell does not disclose the use of a video camera on the support. However, Bell discloses the inflatable tower as being used for supporting functions for use with objects using coaxial cable or the like (column 4, lines 61-66). Video cameras meet this limitation since they typically use coaxial cable. Because Bell discloses the invention as used with objects which employ coaxial cable, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a video camera on the inflatable tower to view a large surrounding area since the higher a camera is elevated, the more it can view.

Regarding claim 7, Bell does not disclose the use of fiber optics, Bell discloses the use of coaxial cables. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bell by using fiber optics to transmit data from top to bottom instead of coaxial cable since fiber optics is a typical upgrade from coaxial cable and is commonly used to transmit data signals in most high tech buildings.

Regarding claims 8, 14, 19, Bell discloses the envelope as being made from weather resistant nylon fabric (column 2, lines 34-36) but does not specifically disclose it as being UV resistant and cloth. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a UV resistant cloth, since Bell is intended to inflate and deflate, cloth is very suitable for folding in on itself and UV

protection would also be obvious since Bell intends to protect the envelope from the weather and uses the tower outdoors where weather is a problem.

Regarding claims 17 and 18, Bell does not disclose the particulars of the envelope when folded. Creases are an inherent part of a fabric when compacted or folded. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fold the fabric of Bell, since folding fabric is well known in the art of compacting fabrics and is used to efficiently store fabrics. Placing any creases in an orthogonal (or longitudinal) direction would be an obvious design choice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to inflatable structures in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK

Basil Katcheves

5/8/07

Examiner AU 3635